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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,489	03/15/2004	Chi-Yin Wong	010327-008310US	1219
20350 7590 09/26/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER WU, JIANYE	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 09/26/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/801,489

**Applicant(s)**

WONG, CHI-YIN

**Examiner**

JIANYE WU

**Art Unit**

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/8/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/08)  
Paper No(s)/Mail Date 8/8/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/8/08 has been entered.

### ***Response to Arguments***

2. Applicant's arguments and all other documents filed on 08/08/2008 have been fully considered but are moot because all independent claims are amended.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. **Claims 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over ATM Forum, AF-VMOA-0145.000, "Voice and Multimedia Over ATM – Loop Emulation Service Using AAL2", July, 2000, (hereinafter VMOA) in view of Thomann (US 6085528).

For **claim 1**, VMOA discloses a system for managing circuit emulation service over an ATM network (Figure 1 of Page 10), comprising:

control logic configured to receive channelized circuit data (User traffic, Figure 2 of Page 12), the channelized circuit data being transmitted at an arbitrary rate (lines1-7 of Section 1.1, Page 6);

control logic configured to format the channelized circuit data into one or more ATM cells, each ATM cell having a payload, the payload having a plurality of octets and corresponding validity fields (SSTED CRC-32 Figure C-2, page 74), each validity field indicating whether the associated octet contains valid data (CRC-32 is interpreted as an validity field for each octet of the payload since it applied to all the octets of the payload); and

control logic configured to transmit the one or more ATM cells across the ATM network (Figure 1 of Page 10);

wherein the transmission of the one or more ATM cells effectively results in transmission of the channelized circuit data at the arbitrary rate over the ATM network (Figure 1 of Page 10); and

wherein the arbitrary rate is not a multiple of a fundamental rate (lines1-7 of Section 1.1, Page 6; e.g., rate for compressed voice).

VMOA is silent on each validity field being associated with one octet of the plurality of octets.

In the same field of endeavor, Thomann discloses using "a parity bit for each byte" of ATM cell (col. 7, line 34-36).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify VMOA with Thomann to associate a validity field to each byte in the ATM cell in order to enhance error detection.

As to **claim 2**, VMOA discloses the system of claim 1 wherein the arbitrary rate is less than the fundamental rate (lines 1-7 of Section 1.1, Page 6; e.g., rate for compressed voice).

As to **claim 3**, VMOA discloses the system of claim 1 wherein the arbitrary rate is higher than the fundamental rate (multiple User traffic, Figure 2 of Page 12).

As to **claim 4**, VMOA discloses the Traffic aggregation equipment incorporating the system as recited in claim 1 (Figure 2 of Page 12).

For **claim 5**, it is the corresponding system claim of claim 1, therefore, is rejected for the same reason explained in claim 1 above.

As for **claim 6**, it is the same as to claim 5, therefore, is rejected for the same reason explained in claim 5 above.

As for **claim 7**, it is equivalent to system claim of claim 2, therefore, is rejected for the same reason explained in claim 2 above.

As for **claim 8**, it is equivalent to system claim of claim 3, therefore, is rejected for the same reason explained in claim 3 above.

For **claims 9-11**, they are the corresponding method claims of claims 1-3, therefore, are rejected for the same reasons explained in claims 1-3 above.

For **claims 12-15**, they are the corresponding method claims of claims 5-8, therefore, are rejected for the same reasons explained in claims 5-8 above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianye Wu whose telephone number is (571)270-1665. The examiner can normally be reached on Monday to Thursday, 8am to 7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571)272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jianye Wu/

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/Seema S. Rao/

Supervisory Patent Examiner, Art Unit 2616